

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC UTILITY CONTROL**

APPLICATION OF THE CONNECTICUT : DOCKET NOS. 03-07-01RE05
LIGHT AND POWER COMPANY TO : & 03-07-02RE08
ESTABLISH A JANUARY 1, 2006 TSO :
RATE AND ASSOCIATED CHARGES : DECEMBER 23, 2005

**WRITTEN EXCEPTIONS OF RICHARD BLUMENTHAL, ATTORNEY
GENERAL FOR THE STATE OF CONNECTICUT**

Richard Blumenthal, Attorney General for the State of Connecticut (“Attorney General”), hereby submits his exceptions to the Department of Public Utility Control’s (“DPUC” or “Department”) Draft decision in the above-captioned proceeding dated December 21, 2005 (“Draft”). For the reasons stated herein, the Attorney General respectfully requests that the DPUC reconsider its preliminary decision to impose a 22.4% rate increase on CL&P’s customers. Instead, the Department should explore every option available to mitigate the impact of this massive and destructive rate increase, including deferring portions of the increase and seeking emergency legislation to reduce its impact on our economy.

In addition, the Attorney General urges the Department to commit to reform the process and procedure by which it determines the transitional standard offer (“TSO”) rates in Connecticut in a manner that makes it open and transparent, inducing greater public confidence in the results. The Attorney General also requests the Department to join this office, the Office of Consumer Counsel, the Connecticut Industrial Energy Consumers and the Connecticut Municipal Electric Energy Cooperative in seeking reform of unfair and unjust federal electric marketing and pricing policies that are costing Connecticut consumers billions of dollars and providing them with no benefits whatsoever.

I INTRODUCTION

The purpose of this proceeding is to establish the Connecticut Light and Power Company's ("CL&P" or "Company") TSO rates as of January 1, 2006 and to set the Company's federally mandated congestion charges ("FMCC's") and Energy Adjustment Clause charges. In its Draft Decision, the Department approved a rate increase of \$665.2 million in 2006 alone. Draft, 1. This amount represents 22.4% and will be effective January 1, 2006. Id.

The rate increase proposed in the Draft would likely be the largest in Connecticut history. Worse still, this historic rate increase comes in the context of three years of double digit electricity rate increases and surging prices for home heating fuels and gasoline costs. If this increase is implemented, Connecticut electric rates will have risen by an astronomical 75 per cent since January 1, 2003. These skyrocketing prices are having a devastating and punishing effect on Connecticut's citizens and economy. Many of the State's residents with fixed or limited incomes will simply be unable to pay their energy bills. It is no exaggeration that the State is facing an energy crisis of frightening consequence.

In these dire times, Connecticut's public officials have a responsibility to do everything within their abilities to protect the public health and safety. In this regard, the Department, as well as the Attorney General, the OCC and the state legislature, have an obligation to explore every option available to mitigate against the impact of these rate increases. This crisis requires bold and innovative steps. It is with these considerations in mind that the Attorney General respectfully presents the following specific recommendations to mitigate the devastating impact of the proposed \$22.4% rate hike.

II. DISCUSSION

A. The Department Should Create a Regulatory Asset

The DPUC should create a regulatory asset to defer one-half of the 22.4% rate increase for future payments. While clearly an extraordinary measure, there are a number of reasons why this proposal is appropriate under the present circumstances. First, the size of this rate increase is absolutely unprecedented. Our customers, both residential, commercial and industrial, simply cannot afford these increases, especially when they are compounded by increases in natural gas costs, home heating oil costs, and possible further increases in electric rates that may be imposed by the FERC. Second, a common argument against creating a regulatory asset under these circumstances is that it would "mask" the market signals. There is, however, no competitive market in Connecticut, and customers have already received all the pricing signals they can afford. We are not faced with the question of whether customers will conserve electricity. To the contrary, we are literally faced with the question of whether customers can afford to maintain their electric service.

Third, the Complaint filed by the Attorney General and others at FERC (discussed infra) is intended to reform the ill advised and destructive federal market rules and policies that have created an unregulated and non-competitive market with generator price subsidies and excess, windfall profits. If successful, the market reforms our coalition has proposed would go into effect immediately, substantially reducing the cost of electric power and ensuring that future auctions will not produce the outrageously high bids we are now witnessing.

B. The Department Should Join the Attorney General in his Section 206 Complaint at FERC

Although oil and gas prices have increased significantly, the primary drivers behind Connecticut's skyrocketing electricity prices, including the proposed \$665 million rate hike proposed for 2006, are the failed attempts by the Federal Energy Regulatory Commission ("FERC") and ISO-New England ("ISO") to deregulate the wholesale electricity markets in New England. The results of CL&P's power procurement action and the proposed 22.5% rate increase are proof of that failure. The rules that govern this make believe "competitive market" must be reformed to prevent power prices from remaining at their artificially and extraordinarily high levels.

On September 8, 2005, the Attorney General, OCC, the Connecticut Municipal Electric Energy Cooperative and the Connecticut Industrial Energy Consumers filed a complaint at FERC asking that it modify ISO's Market Rule One to stop the price gouging that is strangling Connecticut's businesses and residents. Docket No. EL05-150-000, Richard Blumenthal, Attorney General for the State of Connecticut et al. v. ISO New England. If successful, the Complaint should reduce Connecticut's overall electric bill by nearly \$1 billion a year. The Attorney General urges both the Department and CL&P to join this proceeding in support of our complaint and our request for expedited review of that petition. The support of the DPUC and the Company would help impress upon FERC the fact that their market experiment has failed and that major, systemic reform is needed immediately. Connecticut's electric consumers deserve such support. It is time for all of Connecticut to tell FERC that we can no longer afford to pay for its mistakes.

C. The Department Should Reform the Auction Process

As noted above, in its December 21 Draft the Department approved a 22.4% increase to CL&P's overall rates, largely relating to increases in the cost of procuring generation supply contracts for CL&P's customers. Draft, 1. These supply contracts were obtained by CL&P through a secret auction process that is not subject to review by the public, the Attorney General, the Office of Consumer Counsel, or even the Department itself. None of the public agencies responsible to protect ratepayers from price gouging and market manipulation have had any access to detailed information concerning the auction, the bidders or the amounts bid.

As the Attorney General fully argued in his brief in this proceeding, the secret nature of the auction process restricts the public's understanding of and confidence in the auction results. Bids are made in secret and are never subject to any review or challenge. This secret auction lends credence to the impression that there is no competitive market for electricity and that the bids must be kept secret because they are not the result of a free, open and competitive market, but result from bidders unrestrained by market forces or competition, charging whatever the traffic will bear. All other state competitive bid processes are open to the public and no exception should be made for the procurement of electricity. A true competitive market responds to openness and transparency by lowering prices – a secret bid process allows non-competitive marketers to hide behind the mask of competition.

It is imperative, therefore, that the Department revise this system in a manner that allows for greater public scrutiny of the bids, both winning and non-winning, to determine whether the bids are the result of a competitive market for electricity. The

Attorney General respectfully requests that the Department revise its Draft to specifically commit to redesigning a more transparent and open auction process for all future energy procurement.

D. The Department Should Conduct a Study of the 2006 Auction Results

As more fully argued in the Attorney General's Brief filed December 19, 2005, the Department should conduct a thorough review and analysis of the auction results, including detailed bidding information for winning and non-winning TSO suppliers. The Attorney General further requests that the Department study the bids submitted in the auction to determine the profit margins realized by electric generators on their sale of electricity to Connecticut consumers, piercing where necessary the veil of anonymity that the use of marketing agents may have created. The Department should also determine whether the auction process produced bidding that would be expected in an open and competitive market or, instead, produced bids from a market that was unrestrained by either competition or regulation with extraordinary profits for generators.

Such a study is necessary at the very least to restore public confidence that the auction process has been administered fairly. In the event the Department's study finds that the auction results were affected by price gouging or market manipulation, the proposed study will restore public confidence that the state entities responsible for protecting consumers will act vigorously and efficiently in the discharge of those duties. The results of such a study would be key evidence to present to federal regulators in our efforts to reform and revise the present federal pricing rules.

E. Emergency Legislation

As the DPUC is well aware, if ultimately approved, the proposed 22.4% rate increase would be disastrous. It would punish our residential consumers, especially our most vulnerable and needy populations, and cripple our State's economy. It is no exaggeration to say that the impacts of this rate increase would be felt at every level of our state. Thus, the Attorney General invites the DPUC, the OCC and CL&P to work together to explore all possible emergency legislative solutions to soften the crushing impact of the proposed rate increases.

WHEREFORE, the Attorney General respectfully requests that the Department should take the steps recommended herein to help avert the crisis created by CL&P's proposed \$665 million rate hike.

Respectfully Submitted,

RICHARD BLUMENTHAL
ATTORNEY GENERAL
STATE OF CONNECTICUT

BY: _____

Michael C. Wertheimer
John S. Wright
Assistant Attorneys General
10 Franklin Square
New Britain, CT 06051
Tel: (860) 827-2684
Fax: (860) 827-2893

Service is certified to all parties and intervenors on this agency's service list.

John S. Wright
Assistant Attorney General